

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)
)
)
)
Michelle Anne Orengo-McFarlane, M.D.) Case No. 03-2013-230083
)
)
Physician's and Surgeon's)
Certificate No. A 108738)
)
Respondent)
)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 7, 2015.

IT IS SO ORDERED: July 9, 2015.

MEDICAL BOARD OF CALIFORNIA

By: 

Dev Gnanadev, M.D., Chair
Panel B

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
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**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 03-2013-230083

MICHELLE ORENGO-MCFARLANE, M.D.

OAH No. 2015020702

2500 Alhambra Avenue
Martinez, CA 94553
Physician's and Surgeon's
Certificate No. A108738

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, via Joshua M. Templet, Deputy Attorney General.

2. Respondent Michelle Orengo-McFarlane, M.D. (Respondent) is represented in this proceeding by attorney Robert S. Willoughby, whose address is 275 Battery Street, Ste. 1600 San Francisco, CA 94111.

1 3. On or about July 1, 2009, the Medical Board of California issued Physician's and
2 surgeon's certificate No. A108738 to Respondent. The Physician's and surgeon's certificate was in
3 full force and effect at all times relevant to the charges brought in Accusation No. 03-2013-
4 230083 and will expire on April 30, 2017, unless renewed.

JURISDICTION

6 4. Accusation No. 03-2013-230083 was filed before the Medical Board of California
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
8 Accusation and all other statutorily required documents were properly served on Respondent on
9 December 31, 2014. Respondent timely filed her Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 03-2013-230083 is attached as **Exhibit A** and incorporated
11 herein by reference.

ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 03-2013-230083. Respondent has also carefully read,
15 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 7. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
21 compel the attendance of witnesses and the production of documents; the right to reconsideration
22 and court review of an adverse decision; and all other rights accorded by the California
23 Administrative Procedure Act and other applicable laws.

24 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 03-2013-230083, if proven at a hearing, constitute cause for imposing discipline upon her
4 Physician's and surgeon's certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
8 those charges.

9 11. Respondent agrees that her Physician's and surgeon's certificate is subject to
10 discipline and she agrees to be bound by the Board's probationary terms as set forth in the
11 Disciplinary Order below.

CONTINGENCY

13 12. This stipulation shall be subject to approval by the Board. Respondent understands
14 and agrees that counsel for Complainant and the staff of the Board may communicate directly
15 with the Board regarding this stipulation and settlement, without notice to or participation by
16 Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that
17 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
18 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
19 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
20 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
21 be disqualified from further action by having considered this matter.

22 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 14. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or formal proceeding, issue and enter the following
27 Disciplinary Order:

28 //

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and surgeon's certificate No. A108738 issued to Respondent Michelle Orengo-McFarlane, M.D. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

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1 3. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective
2 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the
3 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
4 University of California, San Diego School of Medicine (Program), approved in advance by the
5 Board or its designee. Respondent shall provide the program with any information and documents
6 that the Program may deem pertinent. Respondent shall participate in and successfully complete
7 the classroom component of the course not later than six (6) months after Respondent's initial
8 enrollment. Respondent shall successfully complete any other component of the course within
9 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and
10 shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
11 licensure.

12 A prescribing practices course taken after the acts that gave rise to the charges in the
13 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
14 or its designee, be accepted towards the fulfillment of this condition if the course would have
15 been approved by the Board or its designee had the course been taken after the effective date of
16 this Decision.

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee not later than 15 calendar days after successfully completing the course, or not later than
19 15 calendar days after the effective date of the Decision, whichever is later.

20 4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
21 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
22 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
23 Program, University of California, San Diego School of Medicine (Program), approved in
24 advance by the Board or its designee. Respondent shall provide the program with any information
25 and documents that the Program may deem pertinent. Respondent shall participate in and
26 successfully complete the classroom component of the course not later than six (6) months after
27 Respondent's initial enrollment. Respondent shall successfully complete any other component of
28 the course within one (1) year of enrollment. The medical record keeping course shall be at

1 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
2 requirements for renewal of licensure.

3 A medical record keeping course taken after the acts that gave rise to the charges in the
4 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
5 or its designee, be accepted towards the fulfillment of this condition if the course would have
6 been approved by the Board or its designee had the course been taken after the effective date of
7 this Decision.

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the course, or not later than
10 15 calendar days after the effective date of the Decision, whichever is later.

11 5. PRACTICE MONITORING. Within 30 calendar days of the effective date of this
12 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
13 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
14 licenses are valid and in good standing, and who are preferably American Board of Medical
15 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
16 relationship with Respondent, or other relationship that could reasonably be expected to
17 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
18 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
19 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

20 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
21 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
22 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
23 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
24 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
25 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
26 signed statement for approval by the Board or its designee.

27 Within 60 calendar days of the effective date of this Decision, and continuing throughout
28 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall

1 make all records available for immediate inspection and copying on the premises by the monitor
2 at all times during business hours and shall retain the records for the entire term of probation.

3 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
4 date of this Decision, Respondent shall receive a notification from the Board or its designee to
5 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
6 shall cease the practice of medicine until a monitor is approved to provide monitoring
7 responsibility.

8 The monitor(s) shall submit a quarterly written report to the Board or its designee which
9 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
10 are within the standards of practice of medicine, and whether Respondent is practicing medicine
11 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
12 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
13 preceding quarter.

14 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
15 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
16 name and qualifications of a replacement monitor who will be assuming that responsibility within
17 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
18 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
19 notification from the Board or its designee to cease the practice of medicine within three (3)
20 calendar days after being so notified Respondent shall cease the practice of medicine until a
21 replacement monitor is approved and assumes monitoring responsibility.

22 In lieu of a monitor, Respondent may participate in a professional enhancement program
23 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
24 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
25 chart review, semi-annual practice assessment, and semi-annual review of professional growth
26 and education. Respondent shall participate in the professional enhancement program at
27 Respondent's expense during the term of probation.

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1 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
2 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
3 Chief Executive Officer at every hospital where privileges or membership are extended to
4 Respondent, at any other facility where Respondent engages in the practice of medicine,
5 including all physician and locum tenens registries or other similar agencies, and to the Chief
6 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
7 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
8 calendar days.

9 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

10 7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
11 prohibited from supervising physician assistants.

12 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
13 governing the practice of medicine in California and remain in full compliance with any court
14 ordered criminal probation, payments, and other orders.

15 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
16 under penalty of perjury on forms provided by the Board, stating whether there has been
17 compliance with all the conditions of probation.

18 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
19 of the preceding quarter.

20 10. GENERAL PROBATION REQUIREMENTS.

21 Compliance with Probation Unit

22 Respondent shall comply with the Board's probation unit and all terms and conditions of
23 this Decision.

24 Address Changes

25 Respondent shall, at all times, keep the Board informed of Respondent's business and
26 residence addresses, email address (if available), and telephone number. Changes of such
27 addresses shall be immediately communicated in writing to the Board or its designee. Under no
28 circumstances shall a post office box serve as an address of record, except as allowed by Business

1 and Professions Code section 2021(b).

2 Place of Practice

3 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
4 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
5 facility.

6 License Renewal

7 Respondent shall maintain a current and renewed California physician's and surgeon's
8 license.

9 Travel or Residence Outside California

10 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
11 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
12 (30) calendar days.

13 In the event Respondent should leave the State of California to reside or to practice
14 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
15 departure and return.

16 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
17 available in person upon request for interviews either at Respondent's place of business or at the
18 probation unit office, with or without prior notice throughout the term of probation.

19 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
20 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
21 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
22 defined as any period of time Respondent is not practicing medicine in California as defined in
23 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
24 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
25 time spent in an intensive training program which has been approved by the Board or its designee
26 shall not be considered non-practice. Practicing medicine in another state of the United States or
27 Federal jurisdiction while on probation with the medical licensing authority of that state or
28 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall

1 not be considered as a period of non-practice.

2 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
3 months, Respondent shall successfully complete a clinical training program that meets the criteria
4 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
5 Disciplinary Guidelines" prior to resuming the practice of medicine.

6 Respondent's period of non-practice while on probation shall not exceed two (2) years.

7 Periods of non-practice will not apply to the reduction of the probationary term.

8 Periods of non-practice will relieve Respondent of the responsibility to comply with the
9 probationary terms and conditions with the exception of this condition and the following terms
10 and conditions of probation: Obey All Laws; and General Probation Requirements.

11 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
12 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
13 completion of probation. Upon successful completion of probation, Respondent's certificate shall
14 be fully restored.

15 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
16 of probation is a violation of probation. If Respondent violates probation in any respect, the
17 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
18 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
19 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
20 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
21 the matter is final.

22 15. LICENSE SURRENDER. Following the effective date of this Decision, if
23 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
24 the terms and conditions of probation, Respondent may request to surrender his or her license.
25 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
26 determining whether or not to grant the request, or to take any other action deemed appropriate
27 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
28 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its

1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
3 application shall be treated as a petition for reinstatement of a revoked certificate.

4 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
5 with probation monitoring each and every year of probation, as designated by the Board, which
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
7 California and delivered to the Board or its designee no later than January 31 of each calendar
8 year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert S. Willoughby. I understand the stipulation and the effect it will have on my Physician's and surgeon's certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

15
16 DATED: 5/22/15

MICHELLE ORENGO-MCFARLANE, M.D.
Respondent

19 I have read and fully discussed with Respondent Michelle Orengo-McFarlane, M.D. the
20 terms and conditions and other matters contained in the above Stipulated Settlement and
21 Disciplinary Order. I approve its form and content.

22
23 DATED: 5/25/15

Robert S. Willoughby
Attorney for Respondent

1
2 ENDORSEMENT
3

4 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
5 submitted for consideration by the Medical Board of California.
6

7 Dated: *6/3/2015*

8 Respectfully submitted,

9 KAMALA D. HARRIS
10 Attorney General of California
11 JANE ZACK SIMON
12 Supervising Deputy Attorney General
13

14 
15 JOSHUA M. TEMPLET
16 Deputy Attorney General
17 *Attorneys for Complainant*
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Exhibit A

Accusation No. 03-2013-230083

1 KAMALA D. HARRIS
2 Attorney General of California
3 JANE ZACK SIMON
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *Dec 31 2014*
BY *Moe* ANALYST

8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 03-2013-230083

12 **MICHELLE ORENGO-MCFARLANE,
M.D.**

ACCUSATION

13 2500 Alhambra Avenue
14 Martinez, CA 94553
Physician's and Surgeon's
15 Certificate No. A108738

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs.

22 2. On or about July 1, 2009, the Medical Board of California issued Physician's and
Surgeon's Certificate Number A108738 to Michelle Orengo-McFarlane, M.D. (Respondent). The
23 certificate was in full force and effect at all times relevant to the charges brought herein and will
24 expire on April 30, 2015, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 provides that the Board is responsible for the administration and hearing of disciplinary actions involving enforcement of the Medical Practices Act (section 2000 et seq.) and the carrying out of disciplinary action appropriate to findings made by a medical quality review committee, the Board, or an administrative law judge, with respect to the quality of medical practice by Physician's and Surgeon's Certificate holders.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

• • • •

7. Section 2242, subdivision(a), of the Code provides that prescribing, dispensing, or furnishing dangerous drugs without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

8. Section 725, subdivision (a), of the Code states in pertinent part:

Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon

9. Section 2266 of the Code provides that the failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of patient services constitutes unprofessional conduct.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence, Repeated Negligent Acts, Incompetence, Excessive Prescribing, Inadequate Records)

10. Respondent's records indicate that she first saw patient S.H.¹, then 42-years-old, in July 2009, while Respondent was a resident at San Francisco General Hospital. S.H. became her patient after an attending physician refused to see S.H., because he believed that she had stolen a prescription. Respondent treated her for chronic back pain in her lower back, knees, and shoulder.

11. After Respondent completed her residency, S.H. sought treatment from other providers at the residency clinic. S.H. experienced difficulties obtaining narcotics, and a clinical alert was placed in her hospital chart, forbidding the prescription of controlled substances except in acute situations.

12. S.H. again sought care from Respondent at her first post-residency position, at the Lyon Martin Women's Health Center, beginning in January 2011. Respondent worked here from July 2010 to June 2012. Respondent continued to treat S.H. at her next position at the Washington Township Medical Group, where she worked from July 2012 to November 2012.

¹ Patient names are abbreviated to protect patient privacy. Respondent will have the opportunity to identify the patient and to obtain the records of the investigation during discovery.

1 13. Under Respondent's care, S.H. received multiple prescriptions for controlled
2 substances, including but not limited to clonazepam, a benzodiazepine, carisoprodol, and the
3 following narcotics: Oxycontin, Oxycodone, short acting Oxycodone IR (immediate-release), and
4 Opana ER (extended-release).² During the three years that Respondent cared for S.H., her opioid
5 dose was continually escalated.

6 14. In September 2012, two of Respondent's patients requested narcotics prescription
7 refills. Respondent was unavailable, so a colleague responded to the requests. While reviewing
8 the patients' files, the physician noticed some irregularities in her prescribing of controlled
9 substances (detailed below). Later, in October 2012, a colleague of Respondent's saw S.H.,
10 declined to fill her prescriptions, and offered immediate referral to an in-patient detoxification
11 and rehabilitation program. The physician documented "narcotic abuse" by S.H.

12 15. In November 2012, an internal investigation was conducted into possible
13 overprescribing by Respondent, and she was immediately suspended from work. Respondent
14 resigned a few days later. After Respondent left Washington Township Medical Group, she
15 discontinued her relationship with S.H.

16 16. On March 9, 2013, S.H. died from a drug overdose. The coroner reported S.H.'s
17 immediate cause of death as "acute intoxication with multiple drugs including methadone,
18 morphine and oxycodone."

19 17. Respondent is guilty of unprofessional conduct under sections 2234(b) and/or 2234(c)
20 and/or 2234(d) in that Respondent was grossly negligent and/or repeatedly negligent and/or
21 incompetent in her treatment of S.H., based upon but not limited to the following:

22 A. Respondent repeatedly prescribed clearly excessive amounts of opioids to S.H. When
23 S.H. began seeing Respondent in 2009, she was taking approximately 1,110
24 milliequivalents of morphine per day. By 2012, S.H. was taking approximately 3,690
25 morphine milliequivalents per day. Respondent increased S.H.'s doses despite a lack

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27

² Oxycontin, Oxycodone, short acting Oxycodone IR (immediate-release), and Opana ER
28 (extended-release) are narcotics and schedule II controlled substances as defined by section
11055 of the Health and Safety Code.

1 of clear treatment objectives, despite S.H.'s extensive history of and continued
2 aberrant behaviors, and without a documented consultation with a pain specialist.

3 B. Respondent failed to take into consideration in her prescribing to S.H. the extensive
4 history of S.H.'s aberrant behaviors, documented in her medical records, which
5 included the following:

- 6 • Several instances of S.H. requesting more narcotics after claiming that her
7 medication had been seized by the police or stolen;
- 8 • S.H.'s admitted use of extra medication from family members;
- 9 • S.H.'s past incarceration for possessing controlled substances not prescribed to
10 her;
- 11 • Multiple instances of S.H. making after-hours phone calls and unplanned visits
12 to the emergency room and doctor's offices with the intent to obtain more pain
13 medication, and with accompanying displays of aggressive behavior.
- 14 • S.H.'s hospitalization in 2008 for an overdose;
- 15 • Numerous instances of S.H. obtaining early refills from multiple providers; and
- 16 • A history of illicit substance abuse while concurrently using controlled
17 substances, including a urine screen positive for cocaine in 2006.

18 C. Respondent prescribed multiple controlled substances of different classes to S.H., a
19 patient with a known addictive illness and who was at a high risk for addictive illness,
20 and she did so without a documented consultation with an addiction specialist.

21 D. Respondent prescribed long-acting narcotics, such as Oxycontin, while she knew S.H.
22 to also be receiving methadone from drug addiction clinics, and Respondent failed to
23 initiate and continue coordination of S.H.'s concurrent use of methadone with her
24 narcotics prescriptions.

25 E. Respondent failed to conduct an adequate history and physical examination of S.H.
26 Respondent's histories and physical exams of S.H. included very little and most often
27 no assessment of the patient's complaints. Also there was in most cases no
28 musculoskeletal or other exam focusing on the patient's specific pain complaints.

1 F. Respondent failed to document a treatment plan for S.H. with a clear rationale and
2 specific objectives, tailored to the individual needs of S.H. Respondent did not
3 document improvement in S.H.'s physical or psychosocial function. Likewise,
4 Respondent failed to document a rationale for increases or changes in medication.

5 G. Respondent failed to take into consideration in her prescribing to S.H. a 2010 pain
6 consultation. The consultation documented extensive aberrant behaviors by S.H. in
7 2009 and 2010, including 23 early refills from 16 different providers, taking a primary
8 care provider's secure prescription pad in 2009, and multiple drug screens positive for
9 morphine (when S.H. was not being prescribed morphine). The consultation
10 concluded that S.H. had an addiction to opioids and benzodiazepines and that
11 "medication misuse, either via diversion or addiction, [was] virtually certain."

12 H. Respondent failed to take into consideration in her prescribing to S.H. a 2007
13 psychiatric evaluation of S.H. that determined that S.H. suffered from multiple mental
14 health issues and was dependent on opioids.

15 I. Respondent continued to prescribe controlled substances to S.H., despite S.H.'s
16 extensive non-compliance with treatment directives as noted above, and also including
17 several urine drug screens positive for medications not prescribed and failure to follow
18 through with psychiatry recommendations while at Lyon Martin.

19 J. Respondent failed to make and to document a sufficient effort to taper S.H. off of her
20 continued narcotic medications, to place S.H. in addiction treatment, or to develop or
21 encourage a multidisciplinary treatment plan for S.H.'s chronic pain that included non-
22 medication approaches.

23 18. Respondent is guilty of unprofessional conduct under sections 725 and 2242 of the
24 Code in that Respondent inappropriately and excessively prescribed multiple high doses of
25 narcotics and other controlled substances to S.H. without documenting objective findings
26 supporting such prescriptions, without a treatment plan, and without adequate periodic review of
27 the efficacy of the medication regimen.

28

1 19. Respondent is guilty of unprofessional conduct under section 2266 of the Code in that
2 she failed to maintain adequate records for S.H., including failing to maintain progress notes.

PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Medical Board of California issue a decision:

7 1. Revoking or suspending Physician's and Surgeon's Certificate Number A108738,
8 issued to Respondent;

9 2. Revoking, suspending or denying approval of Respondent's authority to supervise
10 physician's assistants, pursuant to section 3527 of the Code;

11 3. Ordering Respondent to pay the Board, if placed on probation, the costs of probation
12 monitoring; and

13 4. Taking such other and further action as deemed necessary and proper.

15 | DATED: December 31, 2014

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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